

122:24-1-11

**Maintenance of records.**

- (A) Both eligible investors and small business enterprises shall be required to maintain records necessary to prove that they meet the various requirements of section 122.86 of the Revised Code. The burden of proof shall rest with the eligible investor and the small business enterprise and compliance with the suggestions below does not shift the burden of proof to the state, the director, or the tax commissioner.
- (B) All records must be preserved for a period of five years from the completion of the applicable holding period for the qualifying investment, as described in division (A) (4) of section 122.86 of the Revised Code.
- (C) Each eligible investor intending to claim the nonrefundable investment credit must maintain, among other things, complete and accurate records to establish the time of investment and amount of their qualifying investment in a small business enterprise. This documentation could include:
- (1) Records establishing an equity interest such as stock certificates, membership certificates, partnership agreements, corporate minutes, documentation of the entity's ownership structure immediately before and immediately after the investment, or other legal documents;
  - (2) Records establishing the date and amount of the investment such as cancelled checks, wire transfer authorization, journal entries of the small business enterprise, or the equity accounts of the small business enterprise.
- (D) Each small business enterprise must maintain, among other things, complete and accurate records to establish its qualification as a small business enterprise. This documentation includes:
- (1) Payroll policies establishing the entity's criteria for an employee being full-time, as well as payroll records showing names and hours of all employees both in Ohio and in the United States.
  - (2) Records necessary to establish and validate the date, amount and location of the investments described in division (A)(1)(c) of section 122.86 of the Revised Code. This could include contracts, purchase invoices, sales invoices, cancelled checks, wire transfer authorization, bank records, or registration documents.
- (E) The failure to maintain complete records which may be used in verifying the accuracy of the figures reported by the investors or small business enterprises may result in the disqualification of the small business investment certificate, or the nonrefundable investment credit being denied.

Five Year Review (FYR) Dates: 10/10/2018 and 10/10/2023

CERTIFIED ELECTRONICALLY

---

Certification

10/10/2018

---

Date

Promulgated Under: 119.03  
Statutory Authority: 122.86(F)  
Rule Amplifies: 122.86, 5747.81  
Prior Effective Dates: 11/08/2011 (Emer.), 03/29/2012